

ORDER

U.S. DEPARTMENT OF TRANSPORTATION
FEDERAL AVIATION ADMINISTRATION

3770.10A

May 19, 1988

PROCESSING REMOVALS AND REDUCTIONS IN GRADE BECAUSE OF UNACCEPTABLE
SUBJ: PERFORMANCE UNDER THE NAATS/FAA AGREEMENT

1. PURPOSE. This order provides instructions for the processing of removals and reductions in grade because of unacceptable performance under the 1988 agreement with the National Association of Air Traffic Specialists (NAATS).
2. DISTRIBUTION. This order is distributed to Air Traffic Branch Managers and above in the Washington headquarters and regions; to human resource management divisions in the regions to branch level; to all supervisors in flight service stations; and to the Center for Management Development.
3. CANCELLATION. Order 3770.10, Processing Removals and Reductions in Grade Because of Unacceptable Performance Under the NAATS/FAA Agreement, dated July 12, 1985, is cancelled.
4. BACKGROUND. The labor agreement with NAATS effective January 1, 1988, contains the following pertinent provisions.
 - a. Article 67 contains the grievance procedure.
 - b. Article 42 contains provisions relating to the performance appraisal system.
5. FORM. FAA Form 3770-2, Grievance Record is available through normal distribution channels. The NSN is 0052-837-2000; units of issue is set.
6. PERFORMANCE APPRAISAL PROCESS. In evaluating the performance of bargaining unit employees, supervisors will observe applicable law and agency directives and the provisions of Article 42 of the agreement.
7. REMOVALS OR REDUCTIONS IN GRADE BASED ON UNACCEPTABLE PERFORMANCE.
 - a. The following sample letter to PROPOSE actions covered by this paragraph may be used for unit employees.

Date

Name of Employee
Address

Dear (Name):

May 19, 1988

I propose to remove you from your position of (title, series, grade and salary, facility and location) not earlier than 30 days from the date you receive this notice because of unacceptable performance. The critical job elements of your position in which you have performed at an unacceptable level and specific instances of unacceptable performance are listed below:

Critical Job Element No. 1 (state critical job element in which performance is unacceptable)

Instance of Unacceptable Performance No. 1 (state specific instance of unacceptable performance)

Instance of Unacceptable Performance No. 2 (state specific instance of unacceptable performance)

Critical Job Element No. 2 (state critical job element in which performance is unacceptable)

Instance of Unacceptable Performance (state specific instance of unacceptable performance)

(List additional critical job elements and instances of unacceptable performance as appropriate. Incidents of unacceptable performance must have occurred during the previous 1-year period ending on the date of this notice.)

You may reply to this notice to me personally, in writing, or both within 30 calendar days after you receive this notice. In making a response, you have the right to be represented by an attorney or other representative. As soon as possible after the advance notice period has expired, a written decision will be made on the proposed removal.

(signed)

Authorized Deciding Official
Title
Organization

b. The following sample letter to DECIDE actions covered by this paragraph may be used for unit employees.

Date

Name of Employee
Address

Dear (name):

May 19, 1988

3770.10A

My letter of (date) informed you of a proposal to remove you from your position of (title, series, grade and salary, facility and location) because of unacceptable performance. I have considered the information you presented in your letter of (date) and in your oral reply of (date). I find that the instances of unacceptable performance under both critical job elements contained in the notice are supported by substantial evidence and warrant your removal. I find also that your efforts to improve your performance during the notice period have failed to alter the determination of unacceptable performance. It is my decision that you be removed effective (date).

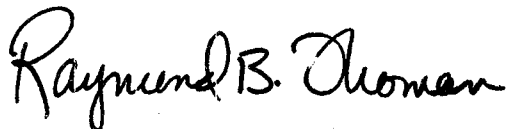
You have the right to appeal this action to the Merit Systems Protection Board (MSPB), or to file a grievance under the NAATS/FAA agreement, but not to do both. If you elect to appeal this action, you must submit an appeal to the Chief Appeals Officer, Merit Systems Protection Board, (address of local MSPB office) during the period beginning with the day after the effective date of the removal until not later than 20 calendar days after the effective date. Enclosed is a form which you may use in submitting an appeal. Also enclosed is a copy of MSPB regulations.


If, on the other hand, you contend that the action violates Article 42, you may file a grievance under Article 67 of the agreement. The grievance must be submitted in writing to the air traffic manager (name, address) no later than 30 calendar days after the effective date of the removal. It must be filed in accordance with Article 67, Section 8, of the agreement and submitted on FAA Form 3770-2. The written grievance will be processed beginning with Step 2 of the negotiated grievance procedure.

(signed) _____
Authorized Deciding Official
Title
Organization

(signed) _____
Authorized Concurring Official
Title
Organization

NOTE: The decision letter must be issued within 30 days after expiration of the notice period.



 JOSEPH W. NOONAN
Director of Labor and Employee Relations

